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SUBJECT: CHIEF JUSTICE AND MINISTRY OF JUSTICE DISCUSS WEST BANK COURTS

Classified By: Consul General Jake Walles, per reasons 1.4 (b) and (d)

¶1. (C) Summary. In November 2007, at PM Salam Fayyad's request, Chief Justice (CJ) Abu Sharar, Minister of Justice (MOJ) Ali Khashan, and Attorney General (AG) Ahmad al-Mughani agreed to establish a court in Jericho to hear major felony and high level security cases. Abu Sharar told Poloff and USAID on March 17 that he no longer supports moving all such cases to the Jericho court and prefers instead to improve the eight first instance courts across the West Bank. Deputy Minister of Justice Ali Abu Diak echoed this opinion to Poloff and USAID. He said obstacles to access and movement will prevent transport from across the West Bank to the court and slow its functioning, leaving unaddressed backlog of 82,000 civil and criminal cases as of January. Minister of Justice Ali Khashan told Poloff March 20 that he still wants to move all felony and high level security cases to Jericho and hopes to re-open the court there in 45 days. Both Abu Sharar and Abu Diak said the Hebron and Jenin courthouses need significant improvements, including upgraded security, and more coordination between Palestinian police, judges and trial schedulers. End Summary.

Fayyad Proposes Court in Jericho

¶2. (C) In November 2007, at PM Salam Fayyad's request, Chief Justice (CJ) Abu Sharar, Minister of Justice (MOJ) Ali Khashan, and Attorney General (AG) Ahmad al-Mughani agreed to establish a court in Jericho to hear major felony and high level security cases. Jericho courthouse construction is nearly complete, pending furniture and equipment that the MOJ asked USAID to supply. However, Chief Justice of the Supreme Judicial Council (SJC) Issa Abu Sharar told Poloff and USAID on March 17 that he no longer supports moving all such cases to the Jericho court. He said obstacles to access and movement will make it difficult for judges, attorneys, witnesses and defendants to travel routinely from West Bank cities to Jericho. Abu Sharar added that the Jericho prison is also too small to serve the entire West Bank. Abu Sharar instead recommends strengthening the eight courts of first instance in Jericho, Hebron, Bethlehem, Ramallah, Nablus, Jenin, Tulkaram, and Qalqilya to hear cases from their respective governates. Although these courthouses need significant improvements, Abu Sharar said they are accessible by Palestinians throughout the West Bank.

MOJ Deputy and Court Officers:
How Will We Get to Jericho?

¶3. (C) Acting Deputy Minister of Justice Ali Abu Diak told Poloff and USAID on March 17 that he agrees with Abu Sharar in opposing the planned consolidation in Jericho and favors

improving the eight first instance courts. (Bio Note: Ali Abu Diak is a well-respected lawyer who has been in the MOJ since 2003. He is close to many of the lawyers who appear before Palestinian courts, but has no significant political profile. End Note.) Abu Diak said the Jericho court will not solve the backlog in criminal cases, but suggested it could serve as a temporary solution until the other seven courts are improved. Abu Diak said that using the Jericho court for cases from across the West Bank will require the construction of a new Jericho prison and improved GoI cooperation for the PA to transport prisoners and for the movement of judges, witnesses, and police. He noted that the GoI has proved helpful only in cases involving the transport of prisoners charged with threats to Israel security, like al-Aqsa Martyrs Brigades members.

MOJ Khashan: Jericho
Offers Safer Trials

¶4. (C) By contrast, Minister of Justice Ali Khashan told Poloff March 20 that he continues to support moving all felony and high level security cases to the Jericho court, which he said will increase judicial independence and allow sensitive cases, especially involving West Bank clans, to be tried safely far from the involved parties. Khashan said "judges and security are in place" and he hopes to open the court within 45 days. While we have not discussed the issue in detail with Fayyad, we believe he also supports using the new Jericho court to the greatest extent possible.

Hebron and Jenin Courts:
Improvements Needed

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¶5. (C) Abu Diak said the PA owns the Jericho, Jenin, and Nablus courthouses and rents those in Ramallah, Hebron, Bethlehem, Tulkaram, and Qalqilya. (Note: The Jenin and Nablus courthouses were built with Japanese funding. End Note). Abu Diak said the Jenin courthouse is spacious, but furniture and a security system are still needed. He said Hebron's rented courthouse is too small to accommodate the southern West Bank's heavy caseload. Abu Diak also said the Hebron court tries serious felony cases, which require a three-judge panel, only one day a week because of the shortage of judge and the poor coordination between Hebron police and trial schedulers. The backlog would improve dramatically, he said, if felony cases were tried three days a week and court summons were issued in a timely manner.

¶6. (C) Separately, Abu Sharar recommended the Hebron prison be moved from al-Dhahariya, a town 45 minutes away, to the Hebron city center to accommodate trial scheduling in the southern West Bank. He said as of January 82,000 civil and criminal cases were pending in the West Bank, including 4,000 felonies over three years old and 36,000 misdemeanors. In Hebron alone, Abu Sharar said there are 3,500 low level cases pending. To deal with the backlog, Abu Sharar said his 2008 SJC strategy includes working with the Ministry of Local Government to assign 15 judges to work on municipal cases throughout the West Bank, including traffic tickets, and he welcomed PM Fayyad's initiative to add 200 people to SJC staff in order to overcome the staffing shortage by the end of 2008.

Comment

¶7. (C) Relations between the MOJ and the SJC (as well as the AG) are historically strained, which may raise the temperature of the disagreement over how to use the Jericho court. Notably, the Chief Justice and Minister are also at odds over a new judicial training center and whether it will be led by a judge or within the MOJ. The Minister is under

political pressure for the PA to deliver quickly and wants to open a new court that can safely hear cases. The CJ sees the operation of courts as his purview and likely resents the Minister for usurping his role and effectively expanding his Ministry's role. However, the practical concerns about access to the court in Jericho identified by Abu Diak - as well as Abu Sharar - are shared by many West Bank lawyers and court officers. PM Fayyad will be the decisionmaker, but full implementation of his decision may be difficult and time consuming. In the meanwhile, we will explore how access to the Jericho court can be facilitated as well as short-term upgrades for the other courts of first instance. End Comment.

WALLES